

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15235
[Redacted])	
)	DECISION
Petitioners.)	
)	

On September 28, 2000, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (the petitioners), proposing additional income tax and interest for the taxable years 1996, 1997, and 1998 in the total amount of \$9,872. The petitioners filed a timely protest and petition for redetermination. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission's Income Tax Audit Bureau audited the petitioners' 1996, 1997, and 1998 income tax returns. As a result of the audit, ITA disallowed various deductions. The majority of the deductions that were disallowed by ITA were disallowed due to the failure of the petitioners to substantiate their entitlement to the deductions.

In June of 2001, the petitioners submitted additional information. ITA reviewed the additional information and recommended that the Notice of Deficiency Determination be modified to allow a few additional deductions.

On January 3, 2002, the Tax Commission sent the petitioners a letter identifying the deductions being allowed as a result of the additional information submitted and to provide the petitioners with additional time in which to provide substantiation for the deductions being disallowed. The petitioners were given until May 30, 2002, in which to provide any additional documentation not previously submitted to the Tax Commission. As of the date of this decision, the petitioners have not provided any additional documentation to substantiate their entitlement to the deductions disallowed by ITA.

The U.S. Supreme Court has stated:

Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed. . . . Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms.

New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440 (1934); *see also Appeal of Sunny Ridge Manor, Inc.*, 106 Idaho 98, 675 P.2d 813 (1984); *Bistline v. Bassett*, 47 Idaho 66, 272 P. 696 (1929). If a material fact upon which a deduction depends is not proved, the taxpayer, upon whom the burden rests, must bear his or her misfortune. *Burnet v. Houston*, 283 U.S. 223 (1931).

The petitioners have failed to provide substantiation for the deductions at issue. Therefore, the Commission finds that the petitioners have failed to carry their burden of proof with regard to the remaining deductions at issue.

WHEREFORE, the Notice of Deficiency Determination dated September 28, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1996	\$1,912	\$ 874	\$ 2,786
1997	3,814	1,408	5,222
1998	2,374	693	<u>3,067</u>
		TOTAL	<u>\$11,075</u>

Interest is calculated through March 31, 2003, and will continue to accrue at the rate set forth in Idaho Code section 63-3045.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' rights to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

[Redacted]